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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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HEWLETT-PACKARD COMPANY  
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P.O. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER
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POKRZYWA, JOSEPH R

ART UNIT	PAPER NUMBER
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2622

DATE MAILED: 01/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/916,894

**Applicant(s)**

BREWSTER ET AL.

**Examiner**

Joseph R. Pokrzywa

**Art Unit**

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/27/05 has been entered.

### *Response to Amendment*

2. Applicant's amendment received on 8/22/05 has been entered and made of record. Currently, **claims 1-22** are pending.

### *Response to Arguments*

3. Applicant's arguments, filed 8/22/05, regarding the previously cited rejection(s) of currently amended claims 1 and 12 have been fully considered and are persuasive. Therefore, the previous rejection(s) has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Axler *et al.* (U.S. Patent Number 5,305,197).

4. As discussed in the Office action dated 9/22/05, applicant's arguments received on 8/22/05 with respect to independent **claims 9 and 21** have been fully considered but they are not persuasive. For completeness, the examiner's response is duplicated and follows.

Art Unit: 2622

5. In response to applicant's arguments regarding the rejection of claim 9, which was cited in the Office action dated 6/27/05 as being anticipated by Smith (U.S. Patent Number 5,630,103), whereby applicant argues on page 12, as well as pages 16-18, that Smith fails to teach of checking the time stamp in response to a customer ordering a publication, since, applicant notes, that Smith teaches that the date of the file is checked upon a new file being received. As read in column 3, lines 13-18, Smith teaches that the receiving personal computers are subscribers of newspapers. Because of this, the receiving computer 48 of the subscriber station 45 inherently orders publications, as subscribers of newspapers have ordered the publications for them to be delivered. With this, Smith can be interpreted as teaching of checking a time stamp on a most recently printed publication stored in a storage area, as read in column 6, lines 48-67, and column 7, line 47-column 8, line 26, being in response to a customer ordering a publication, which is inherent in the subscribing process.

6. Continuing, applicant argues on page 12 that Smith fails to teach if a time stamp on a most recently printed publication stored in a storage area is checked, since in Smith, as argued, there is no mention of storage of a recently printed publication in a storage area. As discussed in the Office action dated 6/27/05, Smith states in column 5, lines 34-40, that the subscriber station representation 45 has the procedure of "reproducing visually the newspaper copy 15 being transmitted into the visible copy 46 reproduced from files extracted from the data flow stream received at the radio receiver unit 47 and stored in the computer 48 for reproduction upon a viewing screen or printer." Thus, the visible copy 46, as seen in Fig. 1, is printed by the printer, being extracted from the received data stream, so as to be viewed by the subscriber, as well as being stored in the computer. With this, Smith further teaches in column 7, line 58-column 8,

Art Unit: 2622

line 26 that “the receiving software compares the received date with the date of the file already stored on the receiving computer 48”. This comparison is used to determine whether a fresher version of the publication is available, as read in column 8, lines 58-62. Thus, Smith can be interpreted as teaching of, in response to a customer ordering a publication, performing the step of checking a time stamp on a most recently printed publication is electronically available, as currently recited in claim 9.

7. Further, applicant argues on page 13 that Smith fails to teach of when it is determined that a fresher version of the printed publication is not electronically available, the most recently printed publication stored in the storage area is delivered to the customer. Smith teaches in column 7, line 52-column 8, line 65 that the version of the newspaper file delivered to the customer is a file stored in the storage area, which as discussed above is the most recently printed publication, when it is determined that a fresher version of the publication is not available, as seen in Fig. 6B. Thus, Smith can be interpreted as teaching of delivering the most recently printed publication to the customer when it is determined that a fresher version of the publication is not available, as is currently required.

8. Therefore, the rejection of **claim 9**, as cited in the Office action dated 6/27/05 under 35 U.S.C.102 as being anticipated by Smith *et al.*, is maintained and repeated in this Office action.

9. In response to applicant’s arguments regarding the rejection of **claim 21** to Smith *et al.*, whereby applicant argues on pages 19-22, that Smith fails to teach of monitoring the activity level around a physical location of a publication delivery system, that Smith fails to teach if the timing and number of printed publications printed by a printing mechanism are based on the

Art Unit: 2622

activity detected by a response system, and that Smith fails to teach of reading a time stamp on a most recent printed publication. As discussed above in the discussion of claim 9, Smith can be interpreted as teaching of reading a time stamp on a most recent printed publication. Continuing, as read in column 7, lines 25-40, Smith states that “The receiving computer 48 monitors its connection to the FM subcarrier receiver 47 until it begins receiving the data stream. It then monitors the incoming data stream until it detects the synchronization sequence.” Thus the FM sub carrier receiver 47 can be interpreted as monitoring the activity level around the physical location of the publication delivery system 45, seen in Fig. 1. Further, as discussed above, Smith teaches that the activity level of the data signals is monitored by the FM subcarrier receiver 47, as read in column 7, lines 34-57. With this, Smith teaches that timing of the publications and the number of printed publications is based on the detected activity level, as read in column 5, lines 24-46, and column 7, line 41-column 8, line 65. Particularly, in column 8, lines 27-33. Smith teaches that the timing of the publications is based on the monitored level of activity, wherein the “receiver checks the data stream to ensure that it receives the end of data block and synchronization sequences. If it does it restarts the receive process. Otherwise, it again begins monitoring the data stream for the synchronization sequence.” Further in column 5, lines 24-46, Smith teaches that the number of printed publications is based on the monitored activity level, wherein “the visible copy 46 reproduced from files extracted from the data flow stream received at the radio receiver unit 47 and stored in the computer 48 for reproduction upon a viewing screen or printer.”

10. Therefore, the rejection of *claim 21*, as cited in the Office action dated 6/27/05 under 35 U.S.C.102 as being anticipated by Smith *et al.*, is maintained and repeated in this Office action.

### ***Claim Objections***

11. **Claim 19** is objected to because of the following informalities:

In **claim 19**, lines 1 and 2, “the time stamp” is recited, having no antecedent basis, as the claim is dependent to claim 12. The examiner suggests changing line 1 of claim 19 to read “method as in claim 17 ~~12~~” or changing lines 1 and 2 to read “wherein ~~the~~ a time stamp...”.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. **Claims 1-6, 12-16, and 20** are rejected under 35 U.S.C. 102(b) as being anticipated by Axler *et al.* (U.S. Patent Number 5,305,197).

Regarding **claim 1**, Axler discloses a publication delivery system (see Fig. 14) comprising a printing mechanism for printing copies of a publication (column 4, line 46-column 5, line 33), and a response system that monitors activity around a physical location of the publication delivery system in order to detect proximity of potential customers (see abstract, and column 6, line 37-column 7, line 31), wherein timing and number of copies of the publications printed by the printing mechanism is based on the activity level detected by the response system (column 6, line 37-column 7, line 31), wherein an increased detected activity level, results in an

Art Unit: 2622

increased number of copies of the publication being printed (column 6, line 37-column 7, line 31).

Regarding *claim 2*, Axler discloses the system discussed above in claim 1, and further teaches that the system is a kiosk (see Figs. 1-12) and the publication is a newspaper (column 5, lines 6-33).

Regarding *claim 3*, Axler discloses the system discussed above in claim 1, and further teaches that the response system includes a microphone that is used to monitor noise level (column 5, lines 34-60).

Regarding *claim 4*, Axler discloses the system discussed above in claim 1, and further teaches that the response system includes an optical sensor to detect movement near the publication delivery system (column 6, line 37-column 7, line 31).

Regarding *claim 5*, Axler discloses the system discussed above in claim 1, and further teaches that the response system includes a motion detector used to detect movement near the publication delivery system (column 6, line 37-column 7, line 31).

Regarding *claim 6*, Axler discloses the system discussed above in claim 1, and further teaches of network access, the print delivery system using the network access to update content of the publication (column 7, lines 7-15, and column 9, lines 1-15).

Regarding *claim 12*, Axler discloses a method for distributing a publication by an automated publication delivery system (see abstract, and column 4, line 46-column 5, line 33) comprising monitoring activity around a physical location of the automated publication delivery system in order to detect proximity of potential customers (see abstract, and column 6, line 37-column 7, line 31), and in response to detection of an increased activity level around the physical



Art Unit: 2622

location of the automated publication delivery system, printing additional copies of the publication for distribution (column 6, line 37-column 7, line 31).

Regarding **claim 13**, Axler discloses the method discussed above in claim 12, and further teaches that the automated publication delivery system is a kiosk (see Figs. 1-12) and the publication is a newspaper (column 5, lines 6-33).

Regarding **claim 14**, Axler discloses the method discussed above in claim 12, and further teaches that the monitoring is performed using a microphone to monitor noise level (column 5, lines 34-60).

Regarding **claim 15**, Axler discloses the method discussed above in claim 12, and further teaches that the monitoring is performed using an optical sensor to detect movement near the automated publication delivery system (column 6, line 37-column 7, line 31).

Regarding **claim 16**, Axler discloses the method discussed above in claim 12, and further teaches that the monitoring is performed using a motion detector to detect movement near the automated publication delivery system (column 6, line 37-column 7, line 31).

Regarding **claim 20**, Axler discloses the method discussed above in claim 12, and further teaches of using network access by the automated print delivery system to update content of the publication (column 7, lines 7-15, and column 9, lines 1-15).

14. **Claims 9, 10, 21, and 22** are rejected under 35 U.S.C. 102(b) as being anticipated by Smith *et al.* (U.S. Patent Number 5,630,103, cited in the Office action dated 6/27/05).

Regarding **claim 9**, Smith discloses a method for distributing a publication by an automated kiosk (subscriber substation 45), comprising the following steps, in response to a

Art Unit: 2622

customer ordering a publication, performing by the kiosk, checking a time stamp on a most recently printed publication stored in a storage area (column 6, lines 48-67, and column 7, line 47-column 8, line 26), determining whether a fresher version of the printed publication is electronically available (column 7, line 47-column 8, line 26), when in the determining step it is determined that a fresher version of the printed publication is not electronically available, delivering to the customer the most recently printed publication stored in the storage area (column 5, lines 11-65, and column 7, line 52-column 8, line 65, see Figs. 6A and 6B), and when in the determining step it is determined that a fresher version of the printed publication is electronically available and the customer indicates a willingness to wait for printing, obtaining the fresher version of the printed publication, and printing out the fresher version of the publication for delivery to the customer (column 5, lines 11-65, and column 7, line 52-column 8, line 65, see Figs. 6A and 6B).

Regarding *claim 10*, Smith discloses the method discussed above in claim 9, and further teaches that the determining step comprises contacting, by the kiosk, an electronic publisher of the publication, wherein the electronic publisher performs the following, comparing a checksum for a most recently generated version of the publication with a checksum for the most recently printed publication stored in the storage area (column 6, lines 11-column 8, line 26), and indicating to the kiosk the results of the comparison (column 7, line 52-column 8, line 26).

Regarding *claim 21*, Smith discloses a publication delivery system comprising a printing mechanism for printing a publication (column 5, lines 24-46), a response system that monitors activity around a physical location of the publication delivery system (column 8, line 66-column 9, line 11), where timing and number of printed publications printed by the printing mechanism

Art Unit: 2622

is based on the activity detected by the response system (column 5, lines 24-65, and column 7, line 14-column 9, line 11), a storage area that stores printed publications (column 7, line 52-column 8, line 11), and a time stamp reader for reading a time stamp on a most recently printed publication stored in the storage area, wherein the print delivery system uses the time stamp to determine freshness of the most recently printed publication stored in the storage area (column 6, lines 48-67, and column 7, line 47-column 8, line 26), wherein in response to a customer requesting the publication, the time stamp reader checks a time stamp on a most recently printed publication stored in a storage area (column 6, lines 48-67, and column 7, line 47-column 8, line 26) to determine whether a fresher version of the printed publication is electronically available (column 7, line 47-column 8, line 26), and when a fresher version of the printed publication is electronically available, obtains the fresher version of the printed publication, and prints the fresher version out on the printing mechanism for delivery to the customer (column 5, lines 11-65, and column 7, line 52-column 8, line 65, see Figs. 6A and 6B).

Regarding *claim 22*, Smith discloses the system discussed above in claim 21, and further teaches that the customer is given an option to wait for printing out of the fresher version of the publication or to immediately receive an already printed copy of the publication (column 5, lines 11-65, and column 7, line 52-column 9, line 11).

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. **Claims 7 and 8, and 17-19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Axler *et al.* (U.S. Patent Number 5,305,197) in view of Aisenberg *et al.* (U.S. Patent Number 6,209,090, cited in the Office action dated 6/27/05).

Regarding **claims 7, 8, 17, and 19**, Axler discloses the system discussed above in claim 1, and further teaches of a storage area that stores printed publications (column 7, lines 7-15), but fails to expressly disclose of a time stamp reader for reading a time stamp on a most recently printed publication stored in the storage area, wherein the print delivery system uses the time stamp to determine freshness of the most recently printed publication stored in the storage area, and if the time stamp is a bar code and the time stamp reader is a bar code reader.

Aisenberg discloses a publication delivery system (column 2, lines 42-60) that comprises a time stamp reader for reading a time stamp on a most recently printed publication stored in a storage area (see Fig. 6, column 10, line 51-column 11, line 55), wherein the system uses the time stamp to determine freshness of the most recently printed publication stored in the storage area (see Fig. 6, and column 11, lines 2-55). Further, Aisenberg teaches that the time stamp is a bar code and the time stamp reader is a bar code reader (column 8, line 56-column 9, line 43).

Axler & Aisenberg are combinable because they are from the same field of endeavor, being systems that distribute printed media. At the time of the invention, it would have been

Art Unit: 2622

obvious to a person of ordinary skill in the art to include the time stamp reader for reading a time stamp on a most recently printed publication stored in the storage area, with the print delivery system uses the time stamp to determine freshness of the most recently printed publication stored in the storage area, as taught by Aisenberg in the system of Axler. The suggestion/motivation for doing so would have been that Axler's system would become more secure, as the system would accurately provide time stamp data in a way that would improve the integrity of the document and the exact date or time the documents were last modified, as recognized by Aisenberg in column 1, lines 11-63. Therefore, it would have been obvious to combine the teachings of Aisenberg with the system of Axler to obtain the invention as specified in claims 7, 8, 17, and 19.

Regarding *claim 18*, Axler discloses the method discussed above in claim 12, and but fails to expressly disclose if the determining step comprises contacting, by the automated publication delivery system, an electronic publisher of the publication, wherein the electronic publisher performs the following steps, comparing a checksum for a most recently generated version of the publication with a checksum for the most recently printed publication stored in the storage area, and indicating to the automated publication delivery system the results of the comparison.

Aisenberg discloses a method that includes a determining step that comprises contacting, by a automated publication delivery system, an electronic publisher of the publication, wherein the electronic publisher performs the following steps, comparing a checksum for a most recently generated version of the publication with a checksum for the most recently printed publication stored in the storage area (see Fig. 6, column 2, line 42-column 3, line 2, and column 10, line 51-

Art Unit: 2622

column 11, line 55), and indicating to the automated publication delivery system the results of the comparison (see Fig. 6, column 10, line 51-column 11, line 55), wherein the system uses the time stamp to determine freshness of the most recently printed publication stored in the storage area (see Fig. 6, and column 11, lines 2-55).

Axler & Aisenberg are combinable because they are from the same field of endeavor, being systems that distribute printed media. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include comparing a checksum for a most recently generated version of the publication with a checksum for the most recently printed publication stored in the storage area, and indicating to the automated publication delivery system the results of the comparison, as taught by Aisenberg in the system of Axler. The suggestion/motivation for doing so would have been that Axler's system would become more secure, as the system would accurately provide time stamp data in a way that would improve the integrity of the document and the exact date or time the documents were last modified, as recognized by Aisenberg in column 1, lines 11-63. Therefore, it would have been obvious to combine the teachings of Aisenberg with the system of Axler to obtain the invention as specified in claim 18.

17. **Claim 11** is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith *et al.* (U.S. Patent number 5,630,103, cited in the Office action dated 6/27/05) in view of Aisenberg *et al.* (U.S. Patent Number 6,209,090, cited in the Office action dated 6/27/05).

Regarding **claim 11**, Smith discloses the method discussed above in claims 9, but fails to expressly disclose if the time stamp is a bar code and the time stamp reader is a bar code reader.

Aisenberg discloses a system that includes a time stamp reader for reading a time stamp on a most recently printed publication stored in a storage area (see Fig. 6, column 10, line 51-column 11, line 55), wherein the system uses the time stamp to determine freshness of the most recently printed publication stored in the storage area (see Fig. 6, and column 11, lines 2-55). Further, Aisenberg teaches that the time stamp is a bar code and the time stamp reader is a bar code reader (column 8, line 56-column 9, line 43).

Smith & Aisenberg are combinable because they are from the same field of endeavor, being systems that provide time stamps on printed media. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the bar code and bar code reader taught by Aisenberg in the system of Smith. The suggestion/motivation for doing so would have been that Smith's system would become more efficient, as the system would accurately provide time stamp data in a way that has a reduced number of moving parts and reduced power consumption, as recognized by Aisenberg in column 8, line 63-column 9, line 11. Therefore, it would have been obvious to combine the teachings of Aisenberg with the system of Smith to obtain the invention as specified in claim 11.

### ***Conclusion***

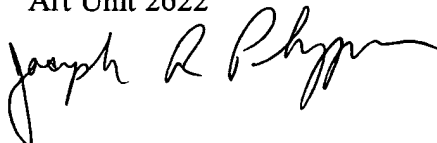
18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe Pokrzywa whose telephone number is (571) 272-7410. The examiner can normally be reached on Monday-Friday, 9:00-5:00.

Art Unit: 2622

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on (571) 272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joseph R. Pokrzywa  
Primary Examiner  
Art Unit 2622



jrp